

1646  
IFW

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of: James P. Elia )  
 Serial No.: 09/836,750 )  
 Filed: April 17, 2001 )  
 For: METHOD FOR GROWING )  
 MUSCLE IN A HUMAN HEART )

Group Art Unit: 1646

Examiner: Elizabeth C. Kemmerer, Ph.D.

CERTIFICATE OF MAILING

hereby certify that this correspondence is being deposited  
 with the United States Postal Service as First Class Mail, in  
 an envelope addressed to Mail Stop Non-Fee Amendment,  
 Commissioner for Patents, P.O. Box 1450, Alexandria,  
 VA 22313-1450 on January 5, 2006

Elizabeth C. Kemmerer 1/5/06  
 Signature Date

**SIXTH SUPPLEMENTAL**  
**INFORMATION DISCLOSURE STATEMENT**

MAIL STOP NON-FEE AMENDMENT  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

Enclosed herewith, please find Form PTO-1449 (Modified) pertaining to the above-identified application. A copy of the publication listed thereon (Reference AX) is enclosed.

This Sixth Information Disclosure Statement ("IDS") supplements the Fifth Information Disclosure Statement filed on October 21, 2004, and is submitted to provide further evidence of the patentable nature of the claimed invention.

The December 2005, issue of Men's Health, containing an article entitled, "The Greatest Medical Revolution of the Century is about to Begin" (Reference AX) relates to previously submitted 2003 and 2005 Circulation publications, which describe clinical research performed by the Texas Heart Institute at St. Luke's Episcopal Hospital, Houston, Texas. The reported


information is based on an interview with Emerson Perin, M.D., Ph.D., and director of new interventional cardiovascular technology at the institute. Dr. Perin, when describing using stem cell therapy for treating heart disease, is quoted as stating, "It's like Miracle-Gro for your heart." The author describes the procedure of injecting autologous bone marrow stem cells by catheter into the patient's heart as "astonishingly easy." This submission is consistent with the expert evidence proffered by Drs. Heuser and Lorincz and supports Applicant's arguments that one skilled in the medical arts would have to resort to nothing more than routine experimentation to practice the described and claimed invention. Such submission further evinces the novel/pioneering nature of applicant's invention which uses old materials, old apparatus and old and well known methods to achieve a truly novel and miraculous result.

This IDS is being submitted in an effort to reduce the number of issues in the instant application and thereby expedite the prosecution thereof.

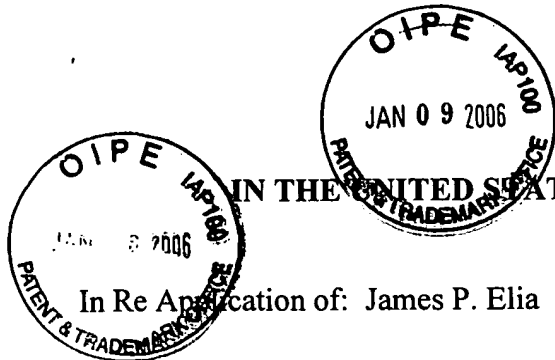
Applicant believes that no fee is due because neither Applicant nor Applicant's attorney were aware of such publication more than three (3) months prior to this submission. A certification including such facts is enclosed.

Respectfully submitted,

Date: January 5, 2006

  
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Gerald K. White  
Reg. No. 26,611

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Michael R. White 1/5/06  
Signature Date

CERTIFICATION

## MAIL STOP NON-FEE AMENDMENT

Commissioner for Patents

P.O. Box 1450

Arlington, VA 22313-1450

Sir:

I, Gerald K. White, Attorney for Applicant, hereby state that the Reference cited in this Sixth Supplemental Information Disclosure Statement ("IDS") was first discovered by me less than three (3) months prior to the date set forth below.

I further state that no item of information contained in this Sixth Supplemental IDS was cited in a written communication from a foreign patent office in a counterpart foreign application, and, to my knowledge, after making reasonable inquiry, no item of information contained in this Sixth Supplemental IDS was known to any individual designated in 37 C.F.R. 1.56(c) more than three (3) months prior to the filing of this statement.

Respectfully submitted,

Date: January 5, 2006

Gerald K. White  
Gerald K. White  
Reg. No. 26,611

**List of Patents and Publications For  
Applicant's 6<sup>th</sup> Supplemental  
Information Disclosure Statement  
Page 1 of 1**



Form PTO-1449 (Modified)  
(Use several sheets if necessary)

Docket No: 1000-10-CO1  
Serial No.: 09/836,750  
Filing Date: April 17, 2001  
Applicant: James P. Elia

Group No.: 1646  
Examiner: Elizabeth Kemmerer

Reference Designation U.S. PATENT DOCUMENTS

Examiner Initial		Document Number	Date	Name	Class	Sub-Class	Filing Date (if appropriate)

Foreign Patent Documents

		Document Number	Date	Country	Class	Sub-Class	Translation Yes	No

Other Art (including author, title, date, pertinent pages, etc.)

	AX	<u>Men's Health</u> , December 2005, McDougall, "The Greatest medical Revolution of the Century is about to begin"

Examiner	Date Considered
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Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.